

## Step 4a. Imposing an Active Punishment

*If the court activates the sentence length, the sentence must be served in prison or jail.*

### **Amount of Time to Be Served** *G.S. 15A-1340.20(b)*

A misdemeanor sentenced to an active punishment must serve the term of imprisonment imposed (the sentence length), less up to 4 days per month “earned time.” Parole is eliminated.

Example: *An offender with five prior convictions is given an active sentence of 90 days for a Class 1 misdemeanor. The offender will serve 90 days if no earned time credits are awarded. If all possible earned time credits are awarded, the offender will serve 78 days (90 days minus 4 days earned time credits for each month served).*

### **Earned Time** *G.S. 15A-1340.20(d)*

Good time and gain time are eliminated for offenders sentenced under structured sentencing. The Secretary of Correction is responsible for adopting rules to specify the rates at, and circumstances under, which earned time may be earned or forfeited. Earned time may also be awarded under G.S. 162-60 (reduction in sentence allowed for work). However, under structured sentencing, the total amount of earned time awarded cannot exceed 4 days per month.

### **Multiple Convictions** *G.S. 15A-1340.22*

In the event of multiple convictions, the court may, in its discretion, run sentences concurrently, consecutively subject to certain limitations, or consolidate the offenses for judgment.

#### **Concurrent Sentences**

If an offender is convicted of more than one offense, the court may impose sentences for each of the offenses and run the sentences concurrently. Thus, the length of imprisonment will not exceed the longest of the individual sentences. Unless otherwise specified by the court, all sentences of imprisonment are presumed to run concurrently with any other sentences of imprisonment.

Example: *An offender is convicted of three misdemeanor offenses (Class 1, Class 2, and Class 3) and the court finds that the offender has six prior convictions, which places the offender in Prior Conviction Level III. If the court elects to run the sentences concurrently, the court must impose a separate sentence for each offense. For example, the court could impose 120 days for the Class 1 misdemeanor, 60 days for the Class 2 misdemeanor, and 20 days for the Class 3 misdemeanor. The length of imprisonment will not exceed 120 days.*

#### **Consecutive Sentences**

If an offender is convicted of more than one offense, the court may impose sentences for each of the offenses and run the sentences consecutively. If the court elects to impose consecutive sentences for two or more misdemeanors and the most serious misdemeanor is a Class A1, Class 1, or Class 2 misdemeanor, the cumulative length of imprisonment cannot